IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16757 of 2004

Between:

Sk. Tajuddin S/o.Shaik Chand
R/o. Post and Mandal utnoor, Adilabad District.

..... PETITIONER

AND

1 The Government of Andhra Pradesh, rep by its Principal Secretary to the Panchayat Raj Department, Secretary Buildings, Hyderabad.
2 State Election Commission, represented by its Secretary, III Floor, Budha Bhavan, MG Road, Hyderabad.
3 The Collector and District Election Authority, Adilabad.
4 M.P.P., Election Officer Utnoor Mandal, Utnoor, Adilabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly on in the nature of writ of mandamus or any other appropriate writ declaring the notification dated 7-9-2004 through proceedings No.15/SEC/B1-2004-30 issued by the respondent No.2 for conduct a meeting for the purpose of election of the President of the Mandal Praja Parishad of Utnoor Mandal as illegal, null and void.

Counsel for the Petitioner:MR.K.VENUMADHAV

Counsel for the Respondent Nos.1 & 3: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.4: MR. K.G.K.PRASAD, Standing Counsel

The Court at the stage of admission made the following ORDER:

On successful moving of the no confidence motion against the President of the Mandal Praja Parishad of Utnoor (MPP) for his removal, the petitioner, who is the Vice-President of MPP, is elected as President of MPP.

The petitioner filed the present writ petition questioning the election notification dated 07-09-2004 issued by the second respondent-Secretary, State Election Commission, Hyderabad for conducting elections to the casual vacancies of Presidents/Vice-Presidents of Mandal Parishads. It is contended by him that as per Section 153(2) of the A.P. Panchayat Raj Act, 1994, "out of the total number of offices of President in the state, the Commissioner shall, subject to such rules as may be prescribed, by notification reserve: (a) such number of offices to the members belonging to scheduled castes and scheduled tribes as may be determined by him" and therefore, unless such rule of reservation is followed, the issuance of impugned notification is arbitrary and illegal.

Learned counsel for the petitioner submits that earlier, the office of President of the Mandal Parishad was reserved in favour of the Scheduled Tribe. But no such averment is made in the affidavit filed by the petitioner nor any evidence is produced stating that earlier, it was reserved in favour of Scheduled Tribe.

It is well settled that once an election notification is issued and even if the rule of reservation is not followed, such an election if held is contrary to the provisions of the Act, petitioner if aggrieved has to

challenge the same by way of election petition after conducting the election.

In view of the same, the present writ petition cannot be entertained.

The writ petition is accordingly dismissed. No costs.

17th SEPTEMBER, 2004.

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To

1 The Principal Secretary, Government of Andhra Pradesh,
Secretary Buildings, Hyderabad.
2 The Secretary, State Election Commission,
III Floor, Budha Bhavan, MG Road, Hyderabad.
3 The Collector and District Election Authority, Adilabad.
4 M.P.P., Election Officer Utnoor Mandal, Utnoor, Adilabad District.
5 Two CCs to the Government Pleader for Panchayat Raj and Rural Development, A.P.High Court Buildings, Hyderabad (OUT)
6 Two CD copies.